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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: April 25, 2023

Satnam Singh

....Petitioner

versus

Harbhajan Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Ankit Bishnoi, Advocate for
Mr. Harpreet Singh Mann, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside impugned order dated 03.10.2022 (Annexure P-1) passed by learned Principal Judge, Family Court, Sri Muktsar Sahib, whereby in divorce proceedings initiated by petitioner-husband, interim maintenance *pendent lite* of Rs.10,000/- per month was granted to respondent-wife from the date of application under Section 24 of the Hindu Marriage Act, 1955 (for brevity, 'the Act of 1955') and further to pay Rs.5,000/- as litigation expenses.

2. The revision petition is premised on the averments that marriage of petitioner and respondent was solemnized on 13.12.2013 as per Sikh Rites and Rituals. No child has been born out of their wedlock. Petitioner-husband is in Indian Army. Due to some matrimonial discord, parents of respondent-wife took her away from the nuptial home. Petitioner also filed a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. Respondent did not appear in the said proceedings. Ultimately, petitioner withdrew the said petition and filed a petition under Section 13 of the Act of 1955 seeking divorce from respondent-wife.

2.1. In the interregnum, respondent-wife filed an application under Section 24 of the Act of 1955 for grant of interim maintenance. Vide impugned order dated

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03.10.2022, petitioner-husband has been directed to pay interim maintenance to the tune of Rs.10,000/- per month to respondent *pendent lite* from the date of application and further to pay Rs.5,000/- as litigation expenses.

3. Learned counsel appearing on behalf of petitioner-husband would submit that respondent-wife is highly qualified person and her father is earning handsome income from commercial property and also having income from other sources. Respondent-wife has filed false application under Section 24 of the Act of 1955 for grant of interim maintenance in order to harass petitioner-husband, whereas respondent-wife is not entitled for grant of interim maintenance, as she has concealed material facts from the Court.

3.1. Learned counsel would further argue that learned Family Court failed to appreciate the fact that respondent-wife had herself deserted petitioner-husband without any rhyme or reason and refused to join the company of petitioner. Further, respondent-wife was mandatorily required to file affidavit of disclosure of assets and liabilities in view of the guidelines issued by the Supreme Court in Criminal Appeal No.730 of 2020 titled Rajnesh Vs. Neha decided on 04.11.2020. However, learned Family Court never asked respondent-wife to file such an affidavit.

4. I have heard learned counsel appearing on behalf of petitioner and perused the case file.

5. Impugned order dated 03.10.2022 passed by learned Principal Judge, Family Court, Sri Muktsar Sahib, is premised, *inter alia*, on the following reasoning:

“5. Relationship between the parties stands admitted being wife and husband. Applicant-wife has filed a petition under section 13 HMA for dissolution of marriage through decree of divorce. Plea taken by petitioner/applicant and defence taken by the respondent/husband requires proof and can be taken into consideration when both the parties will lead their respective evidence. It stands, established that applicant has no income to maintain herself during the pendency of the present application and she is having no source of income to

bear the litigation expenses. As per section 24 HMA respondent husband is legally and morally bound to maintain the applicant wife during the pendency of the present case and to give litigation expenses to wife.

6. *So far as the quantum of maintenance pendent lite and litigation expenses is concerned, applicant-wife has submitted that respondent is hale and healthy person, he is serving in Indian Army and drawing Rs.70,000/- per month and he is also owner of other movable and immovable properties and thus the total income of the respondent is Rs.80,000/- per month. Whereas, it has been submitted by the respondent that he is serving in Indian Army but not earning as alleged by the respondent. No document regarding income of the petitioner has been filed by the applicant-wife. After considering the case as set up by applicant and reply of respondent, this court considers that respondent being serving in Indian Army can be expected to earn more than Rs.50,000/- per month.*

After considering all these facts, this court considers that respondent-husband can easily pay Rs.10,000/- per month to applicant during the pendency of petition as maintenance pendent lite and he can easily pay Rs. 5000/- as litigation expenses.

7. *Accordingly, application under section 24 HMA stands allowed and respondent is directed to pay Rs.10,000/- per month to applicant as maintenance pendent lite from the date of application. He is also directed to pay Rs.5000/- as litigation expenses.”*

6. The determination of quantum of maintenance in matrimonial disputes depends upon financial status of husband and the standard of living which the wife was accustomed to in her matrimonial home. On a Court query, learned counsel appearing on behalf of petitioner-husband submits that monthly income of petitioner is around Rs.40,000/- per month. It is not shown if the respondent has any income. Plea of husband that she is highly qualified and her father of respondent-wife earns a handsome income *ipso facto* does not absolve him from his moral and legal duty to maintain his wife. The amount of Rs.10,000/- per month as interim maintenance *pendent lite* fixed by learned Family Court cannot be said be excessive and unreasonable, given the standard of living of husband as well as the spiralling inflation rates and high cost of living.

6.1. The case law cited by learned counsel for petitioner-husband is distinguishable on facts of the instant case.

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7. Having heard the arguments of learned counsel for petitioner, there is no room for interference in the aforesaid valid reasons recorded by learned Court below.
8. No material irregularity in law or procedure has been committed by learned Court below, so as to exercise extraordinary revisional jurisdiction herein.
9. Dismissed.
10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 25, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No